

**A-6421 (a) & (b)**  
**Variance Request**

- a) Expand a front stoop and tread that would encroach a maximum of eight and seventy-five one hundredths (8.75) feet forward of the twenty-five (25) foot front building restriction line; and
- b) Construct a portico over the proposed stoop which would encroach a maximum of seven and seven-tenths (7.7) feet forward of the twenty-five (25) foot front building restriction line.

Mr. Sean F.X. Boland  
4 East Lenox Street

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**CHEVY CHASE VILLAGE  
BOARD OF MANAGERS  
NOVEMBER 13, 2013 MEETING**

**STAFF INFORMATION REPORT**

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**TO:** BOARD OF MANAGERS

**FROM:** ELLEN SANDS, PERMITTING AND CODE ENFORCEMENT COORDINATOR

**DATE:** 11/7/2013

**SUBJECT:** HEARING OF CASE NO. A-6421 (A) & (B) VARIANCE REQUEST  
MR. SEAN F.X. BOLAND, 4 EAST LENOX STREET  
A) EXPAND A FRONT STOOP AND TREAD THAT WOULD ENCROACH A MAXIMUM OF EIGHT AND SEVENTY-FIVE ONE HUNDREDTHS (8.75) FEET FORWARD OF THE TWENTY-FIVE (25) FOOT FRONT BUILDING RESTRICTION LINE; AND B) CONSTRUCT A PORTICO OVER A MODIFIED STOOP WHICH WOULD ENCROACH A MAXIMUM OF SEVEN AND SEVEN TENTHS (7.7) FEET FORWARD OF THE TWENTY-FIVE (25) FOOT FRONT BUILDING RESTRICTION LINE.

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**Case Synopsis:** The Applicant proposes to expand an existing stoop with one tread and to construct a new portico over the proposed stoop. The existing house as well as the existing stoop and tread currently encroach forward of the front twenty-five (25) foot front building restriction line. The applicable covenants do not enumerate a front building setback, thus there is no covenant setback issue. The Applicant contends that every house on the block (plats enclosed) has encroachments forward of the twenty-five (25) foot front building restriction line. The property is in the Chevy Chase Village (CCV) Historic District and there are no tree protection issues associated with the proposed work.

**NOTICE REQUIREMENTS:** Abutting Owners; Public Notice

**APPLICABLE CHEVY CHASE BUILDING REGULATION:**

**The Chevy Chase Village Code § 8-17 (c) states:**

No structure or play equipment of any description shall be erected within twenty-five (25) feet of the front line of any lot.

**APPLICABLE COVENANTS:**

Unlike the majority of covenants imposed on properties in the Village, the covenants applicable to this property do not enumerate a front building line restriction. The covenants instead contain the more abbreviated provision “[t]hat no stable, carriage-house, shed, or outbuilding shall be erected within twenty-five feet of the front line of said premises.” *Hence there is no covenant issue.*<sup>1</sup>

**FACTUAL AND BACKGROUND INFORMATION:**

The property is on the south side of East Lenox Street.

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<sup>1</sup> The covenants for this property do state that the property “being as per plat recorded in Liber J.A. No. 36, folio 61, which in turn states “Building lines are shown thus [indicating dashed line] and are 25 feet back from street lines...”. The interpretation by the Board in previous similar cases has been that the “building line setback” is not equivalent to an enumerated covenant restriction.



Figure 1: View of 4 East Lenox Street. The existing encroachment of the house, stoop and tread is 7.5 feet.

The existing house encroaches one and twenty-five hundredths (1.25) feet forward of the twenty-five (25) foot front building restriction line (BRL). The existing stoop encroaches an additional five (5) feet and the existing tread encroaches one and twenty-five one hundredths (1.25) feet, thus **the total existing encroachment is seven and five tenths (7.5) feet forward of the front BRL.**

The total maximum encroachment of the proposed stoop, tread and portico is eight and seventy-five one hundredths (8.75) feet forward of the front BRL. **Thus the total maximum increase in the encroachment is one and twenty-five hundredths (1.25) feet.**

The Applicant has provided plats of other properties on this block of East Lenox Street (enclosed) in support of his contention that most of the other properties on this block of East Lenox Street encroach forward of the front BRL.

The property is in the CCV Historic District. If the variance request is approved, the Applicant will need to obtain Historic Preservation Commission (HPC) approval for the proposed work.

To date there have been no letters received from abutting neighbors in support of or opposition to the stoop or portico requests.

The Village arborist has assessed the property. There are no tree protection concerns related to the expansion of the stoop or construction of the portico.

Applicable Fees: Building Permit Application: \$30; Variance Application Fee: \$300; TOTAL: \$330.

#### RELEVANT PRECEDENTS:

There are numerous precedents for variances from Section 8-17 (c) of the Village Code (prohibiting structures within twenty-five (25) feet of the front line of any lot) to construct porticos that were **denied**

because they would have **created covenant setback violations**. That is not applicable in the subject request. More relevant therefore, are that in May 2001, Mr. & Mrs. Justin Bausch of 12 East Lenox Street were **granted a variance to construct** a two-story addition, a portion of which would extend ten (10) feet forward of the front (Brookville Road) twenty-five (25) foot front building restriction line. In May 2005 Mr. & Mrs. Bausch of 12 East Lenox Street were **granted a variance to extend** the uncovered steps leading to the front porch. In the Bausch cases, which are on the same block of East Lenox street as the subject case, the covenants were worded to prohibit “any stable, carriage houses or shed” forward of the twenty-five (25) foot front building restriction line, rather than the more standard language prohibiting “structure[s] of any description” forward of that setback.

Regarding just the uncovered stoop, there are many precedents for such stoops being approved (recently, 135 Grafton Street; 18 West Lenox Street; 28 Hesketh Street; 7 Hesketh Street; 127 Grafton Street; 5501 Montgomery Street; etc) at properties with covenants that prohibit “structures of any description” from being constructed within twenty-five (25) feet of the front line of the lot. In those cases the Board determined circumstances under which those covenants were not applicable. Those cases, while they are relevant to the request for the variance to the CCV Building Code regulations, are not relevant to any covenant issue, since there is no covenant conflict in this case.

#### **FINDINGS REQUIRED:**

1. The proposed variance is required because special conditions exist whereby the enforcement of the requirements of the Village Building Code would result in an unwarranted hardship and injustice to the owner.
2. The proposed variance will most nearly accomplish the intent and purpose of the requirements of the Village Building Code; and
3. Except for variances from the requirements of Sections 8-22 [fences], 8-26 [driveways] or Chapter 25 [public rights-of-way] of the Village Regulations, the structure authorized by the proposed variance would not violate any covenant applicable to the property.

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#### **Draft Motions**

I move to direct staff to draft a decision APPROVING/DENYING the variance request in Case A-6421 (a), to expand a stoop and tread that would encroach a maximum of eight and seventy-five one hundredths (8.75) feet forward of the twenty-five (25) foot front building restriction line based on the findings that ...



**CHEVY CHASE VILLAGE  
NOTICE OF PUBLIC HEARING**

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Please take notice that the Chevy Chase Village Board of Managers will hold a public hearing on the 13<sup>th</sup> day of November, 2013 at 7:30 p.m. The hearing will be held at the Chevy Chase Village Hall at 5906 Connecticut Avenue in Chevy Chase, Maryland.

**APPEAL NUMBER A-6421 (a) & (b)  
MR. SEAN F. X. BOLAND  
4 EAST LENOX STREET  
CHEVY CHASE, MARYLAND 20815**

The applicant seeks a variance from the Board of Managers pursuant to Section 8-11 of the Chevy Chase Village Building Code to a) expand a front stoop and tread that would encroach a maximum of eight and seventy-five one hundredths (8.75) feet forward of the twenty-five (25) foot front building restriction line; and b) construct a portico over the proposed stoop which would encroach a maximum of seven and seven tenths (7.7) feet forward of the twenty-five (25) foot front building restriction line.

**The Chevy Chase Village Code § 8-17 (c) states:**

No structure or play equipment of any description shall be erected within twenty-five (25) feet of the front line of any lot.

Additional information regarding this appeal may be obtained at the Chevy Chase Village Office between the hours of 9:00 a.m. and 5:00 p.m. Monday through Friday, may be viewed on the Village website at [www.chevychasevillagemd.gov](http://www.chevychasevillagemd.gov) or you may contact the office for this information to be mailed to you.


This notice was emailed (where possible) and mailed to abutting and confronting property owners on the 30<sup>th</sup> day of October, 2013.

**Chevy Chase Village Office  
5906 Connecticut Avenue  
Chevy Chase, Maryland 20815  
301-654-7300**

**MAILING LIST FOR APPEAL A-6421 (A) & (B)**

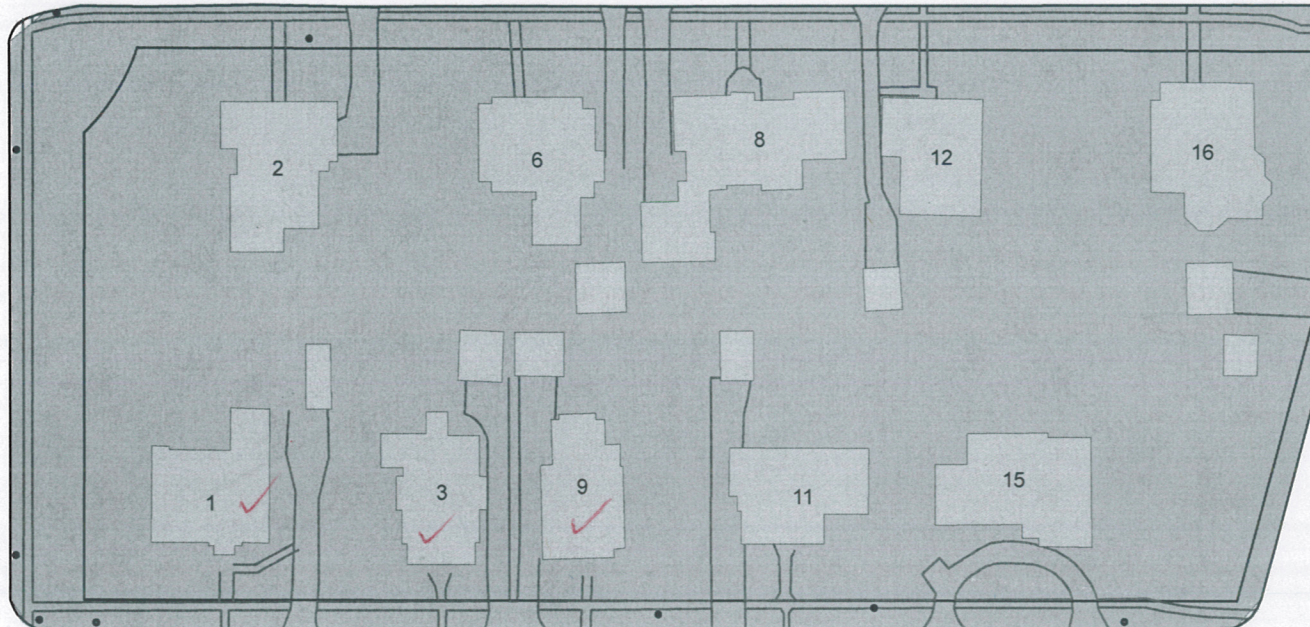
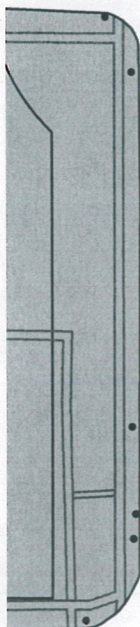
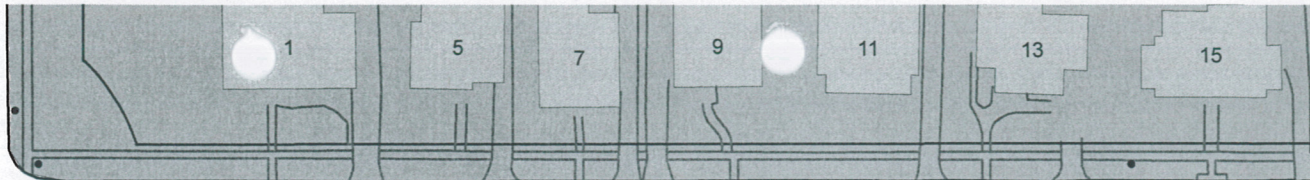
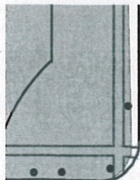
**MR. SEAN BOLAND**  
**4 EAST LENOX STREET**  
**CHEVY CHASE, MD 20815**

<b>Adjoining and confronting property owners</b>	
Mr. & Mrs. Manuel P. Bramao Or Current Resident 1 East Lenox Street Chevy Chase, MD 20815	Ms. Elizabeth J. Kannan & Mr. James P. Spiegelman Or Current Resident 3 East Lenox Street Chevy Chase, MD 20815
Ms. Nancy K. Mellon Or Current Resident 9 East Lenox Street Chevy Chase, MD 20815	Current Resident 5903 Connecticut Avenue Chevy Chase, MD 20815
Mr. & Mrs. J.P. Matan Or Current Resident 6 East Lenox Chevy Chase, MD 20815	Mr. & Mrs. Donald M. Wolf Or Current Resident 1 East Kirke Street Chevy Chase, MD 20815
Ms. Leslie Zimberg & Mr. Keith Martin Or Current Resident 3 East Kirke Street Chevy Chase, MD 20815	Mr. & Mrs. Richard Mayfield Or Current Resident 5 East Kirke Street Chevy Chase, MD 20815

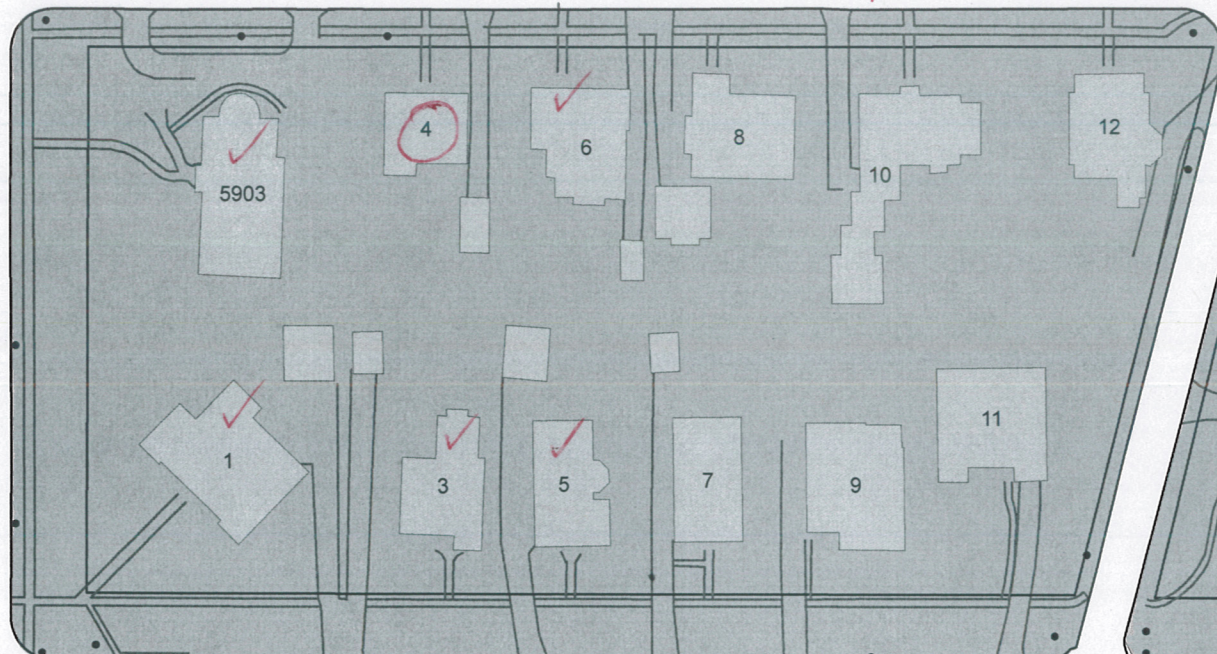
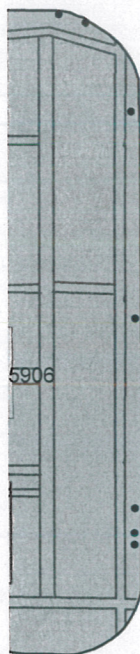
  
I hereby certify that a public notice was emailed (where possible) and mailed to the  
aforementioned property owners on the 30<sup>th</sup> day of October, 2013.

**Ellen Sands**  
**Permitting and Code Enforcement Coordinator**  
**Chevy Chase Village**  
**5906 Connecticut Avenue**  
**Chevy Chase, MD 20815**

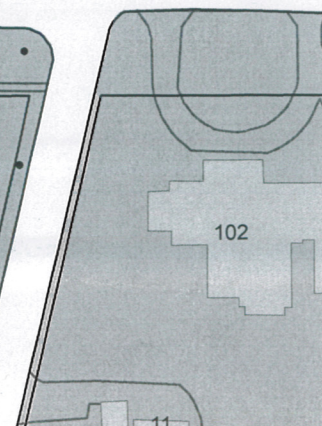
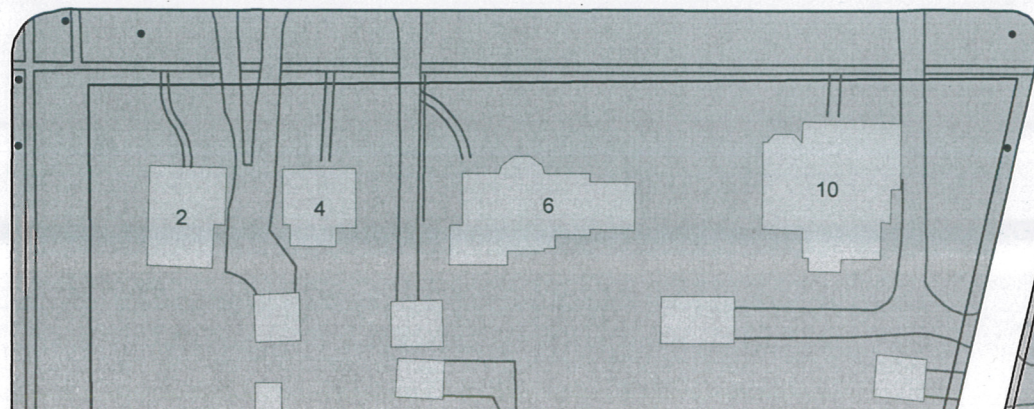




*E. Lenox*



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October 30, 2013

Mr. Sean F. X. Boland  
4 East Lenox Street  
Chevy Chase, MD 20815

Dear Mr. Boland:

Please note that your request for a variance to expand the stoop and construct a portico at your property is scheduled before the Board of Managers on Wednesday, November 13, 2013 at 7:30 p.m.

Either you or another representative must be in attendance to present your case. At that time, additional documents may be introduced and testimony can be provided in support of the request.

Should the Board approve your request for a variance to construct the proposed work, all applicable permits from the Village and Montgomery County must be obtained prior to commencing the work. For your convenience, enclosed please find copies of the Public Hearing Notice and mailing list. Please contact the Village office in advance if you are unable to attend.

Sincerely,

Ellen Sands  
Permitting and Code Enforcement  
Chevy Chase Village

Enclosures

**CHEVY CHASE VILLAGE**

5906 Connecticut Avenue  
Chevy Chase, Maryland 20815

Phone (301) 654-7300

Fax (301) 907-9721

ccv@montgomerycountymd.gov  
www.chevychasevillagemd.gov

**BOARD OF MANAGERS**

PATRICIA S. BAPTISTE  
*Chair*

MICHAEL L. DINGER  
*Vice Chair*

RICHARD M. RUDA  
*Secretary*

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*Assistant Secretary*

GARY CROCKETT  
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ROBERT C. GOODWIN, JR.  
*Assistant Treasurer*

ELISSA A. LEONARD  
*Board Member*

**VILLAGE MANAGER**  
SHANA R. DAVIS-COOK

**LEGAL COUNSEL**  
SUELLEN M. FERGUSON



Chevy Chase Village  
Building Permit Application

Permit No: 6421

Property Address:

A EAST LENOX STREET

Resident Name: SEAN FX BOHARD

Daytime telephone: 202 439-7799

Cell phone: 202 241-9946

After-hours telephone: 202 241-9946

E-mail: SEAN.BOHARD@bakerbohs.com

Project Description:

FRONT ENTRY

☐ Check here if the construction will require the demolition of over fifty (50) percent of any existing structure.

Primary Contact for Project:

☐ Resident

☐ Architect

☒ Project Manager

☐ Contractor\*

\*MHIC/MD Contractor's License No. (required):

Information for Primary Contact for Project (if different from property owner):

Name: Paul Locher Jr

Work telephone: 301 592 0070 After-hours telephone: 301 518 7053

Cell phone: SAME

E-mail: LOCHER.PR@AOL.COM

Will the residence be occupied during the construction project?

☒ Yes

☐ No

If no, provide contact information for the party responsible for the construction site (if different from above):

Name:

Address:

Work telephone:

After-hours telephone:

Cell phone:

E-mail:

Parking Compliance:

Is adequate on-site parking available for the construction crews?

☒ Yes

☐ No

If no, please attach a parking plan which minimizes inconvenience to neighboring residents, and indicate if the property is in a permit parking area.

Will road closings be required due to deliveries, equipment or other reasons?

☐ Yes

☒ No

**Building Permit Filing Requirements:**  
**Application will not be reviewed until the application is complete**

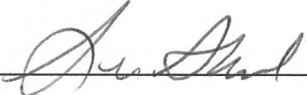
- ☐ Copy of stamped drawings approved by Montgomery County Department of Permitting Services (DPS) and the Historic Preservation Commission (HPC), if required. Every page of drawings must be clearly stamped.
- ☐ This application form, signed by resident.
- ☐ Boundary Survey
- ☐ Site Plan (see: Village Site Plan Checklist to ensure completeness)
- ☐ Building plans and specifications
- ☐ Tree Preservation Plan requested of Village arborist (see: Village Tree Inspection Request form). All required tree protections must be fully installed before any work begins.
- ☐ Filing Fee (due at time of application). Fees schedule is listed in Chapter 6 of the Village Code.
- ☐ Damage deposit or performance bond (due when Building Permit is issued). Amount of required deposit or bond will be set by Village Manager.

*Once this permit application is complete, the Village Manager will review the application and accompanying documents and, under most circumstances, act on the application within 5 to 10 working days.*

*If the Montgomery County permit is suspended, revoked or lapsed, the Village permit is automatically suspended, revoked or lapsed.*

*No signs advertising the architect, contractor, or any other service provider may be posted on the work site.*

**I hereby certify that I have the authority to make the foregoing application, that the application is correct, that I have read and understood all requirements and that the construction will conform to the regulations of the Montgomery County Zoning Code, the Village Code including Urban Forest code, and any covenants and easements on the subject property.**

**Applicant's Signature:**  **Date:** 7/31/2013

*To be completed by Village staff:*

Is this property within the historic district? Yes ☒ No ☐ Staff Initials: ES  
Date application filed with Village: 8/20/13 Date permit issued: \_\_\_\_\_ Expiration date: \_\_\_\_\_

<b>For Use By Village Manager</b>	<b>Application approved with the following conditions:</b>
<b>For Use By Village Manager</b> <div style="border: 2px solid black; padding: 5px; display: inline-block; text-align: center;"> <b>DENIED</b>  AUG 20 2013  Chevy Chase  Village Manager </div>	<b>Application denied for the following reasons:</b>
	<i>Handwritten: Wrong turn proposed</i>
	<i>Handwritten: Particulate matter forward</i>
	<i>Handwritten: of the 25' B.R.L.</i>

<b>Filing Fees</b> (due when application submitted)	<b>Checks Payable to:</b>	<b>Chevy Chase Village</b> <b>5906 Connecticut Ave.</b> <b>Chevy Chase, MD 20815</b>
Permit Application Fee: \$ <u>30.00</u> (see Permit Fee Worksheet) <input type="checkbox"/> \$50.00 (if construction is in the Public Right-of-way)		
Tree Preservation Plan Fee: <input type="checkbox"/> \$250.00 <input type="checkbox"/> Not required for this project. <i>TBD</i>		
TOTAL Fees: <i>\$30.00 check #</i>		
<b>Damage Deposit/Performance Bond</b> (due when permit is issued)	<b>Checks Payable to:</b>	<b>Chevy Chase Village</b> <b>5906 Connecticut Ave.</b> <b>Chevy Chase, MD 20815</b>
<input type="checkbox"/> \$ _____ <input type="checkbox"/> Waived by Village Manager	Date: _____ Village Manager Signature: _____	
Cost of damage to R-O-W: (calculated at close-out) Amount of refund: _____	Date: _____ Village Manager Signature: _____	



# Chevy Chase Village

## Application for a Variance

A variance is permission granted to a landowner to depart from the specific requirements of the Village zoning ordinance and allows a landowner to use land differently than specified in the ordinance. The variance is a written authorization from the Board of Managers permitting construction in a manner not otherwise allowed by the Village Code.

<b>Subject Property:</b>	4 E. Lenox Street, Chevy Chase, MD	
<b>Describe the Proposed Project:</b>	The project involves adding a front portico and rebuilding the existing stoop and single step. The proposed portico will largely cover the existing stoop.	
<b>Applicant Name(s) (List all property owners):</b>	Sean F. Boland	
<b>Daytime telephone:</b>	202.639.7799	<b>Cell:</b> 202.412.9946
<b>E-mail:</b>	sean.boland@bakerbotts.com	
<b>Address (if different from property address):</b>		
<b>For Village staff use:</b>		
<b>Date this form received:</b>	10/11/13	<b>Variance No:</b> A-6421

### Filing Requirements:

#### Application will not be accepted or reviewed until the application is complete

- ☒ Completed Chevy Chase Village Application for a Variance (this form)
- ☒ Completed Chevy Chase Village Building Permit Application
- ☒ A boundary survey or plat diagram with a margin of error of one tenth of a foot or less showing all existing structures, projections and impervious surfaces.
- ☒ Surveys, plats, engineering reports, construction plans/specifications or other accurate drawings showing boundaries, dimensions, and area of the property, as well as the location and dimensions of all structures/fences/walls/etc., existing and proposed to be erected, and the distances of such structures/fences/walls/etc., from the nearest property lines. These drawings shall incorporate and display reference dimensions from the boundary survey or plat diagram required above.
- ☒ Copy of Covenants applicable to the property except for variances from Sections 8-22, 8-26 or Article IV of Chapter 8 of the Chevy Chase Village Code.
- ☒ Variance fee (See fee schedule listed in Chapter 6 of the Village Code).

### Affidavit

I hereby certify that I have the authority to submit the foregoing application, that all owners of the property have signed below, that I have read and understand all requirements and that I or an authorized representative will appear at the scheduled public hearing in this matter. I hereby authorize the Village Manager, or the Manager's designee, and/or the Board of Managers to enter onto the subject property for the purposes of assessing the site in relation to this variance request. I hereby declare and affirm, under penalty of perjury, that all matters and facts set forth in the foregoing application are true and correct to the best of my knowledge, information and belief.

Applicant's Signature: [Signature]  
 Applicant's Signature: \_\_\_\_\_

Date: 10/10/2013  
 Date: \_\_\_\_\_



**Describe the basis for the variance request (attach additional pages as needed).**

Describe the special conditions of the property (e.g., odd shape, small size, sloping topography, abuts state highway, etc.) and how the property compares to other properties in the Village:

See Attachment 1

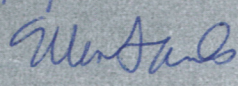
Describe how enforcement of the building regulations would result in an unwarranted hardship and injustice because of the special condition(s) described above (i.e., describe (i) the unwarranted hardship and injustice that you claim exists and (ii) how the special conditions cause that unwarranted hardship and injustice):

See Attachment 2 with exhibits

Describe how the proposed variance most nearly accomplishes the intent and purpose of the requirements of Chapter 8 of the Chevy Chase Village Code, entitled *Buildings and Building Regulations*:

See Attachment 3

*In exercising its powers in connection with a variance request, the Chevy Chase Village Board of Managers may reverse or affirm, wholly or partly, or may modify the requirement, decision or determination as it deems appropriate.*

<b>Variance Filing Fee</b> <i>Per Village Code Sec. 6-2(a)(24):</i> <input checked="" type="checkbox"/> \$300.00 for new construction. <input type="checkbox"/> \$150.00 for replacing existing non-conformities. <input type="checkbox"/> \$300.00 for fences, walls, play equipment, trees, hedges, shrubbery in the public right-of-way. <input type="checkbox"/> Other: \$ _____  <b>Fee Paid:</b> \$300.00	<b>Checks Payable To:</b> Chevy Chase Village 5906 Connecticut Ave. Chevy Chase, MD 20815  <b>Date Paid:</b> 10/11/13 <b>Staff Signature:</b> 
	<b>Approved to Issue Building Permit per Board Decision Signed by the Board Secretary on:</b>  <b>Date:</b> _____  <b>Signature:</b> _____ Village Manager

## ATTACHMENT 1

### BASIS FOR VARIANCE REQUEST

My home was built in 1948. It is not a "historic" property. A variance is required because the planned portico and rebuilt stoop would infringe on the 25 foot front building restriction line ("BRL") in the CCV Code. It would not violate any of the covenants applicable to the property. Copies of all applicable covenants have been provided to Chevy Chase Village (Ellen Sands).

It is important to note that the existing main structure already infringes on the 25 foot BRL by 1.25 feet, the existing stoop infringes by an additional 5 feet and the one step an additional 1.25 feet. Thus, the total present infringement is 7.50 feet. The new stoop will extend 6.25 feet and the single step an additional 1.25 foot (*i.e.* same size as existing step). Thus, the total infringement, post construction, will be only 1.25 feet greater than the current infringement. There is no way for the property owner to have any sort of covered stoop without encroaching into the 25 foot building code setback because the front wall of the house already infringes on said setback. The applicant also wishes to note that the Village Board of Managers recently approved the reconstruction of a stoop at 135 Grafton Street where such reconstruction would result in a minor additional encroachment on the front BRL of 12". Case No. A-6409 (Variance Request heard and approved September 9, 2013). Applicant here believes that this is a similar "minor" additional encroachment.

The planned portico and stoop has been classically and tastefully designed to fit both the home and the neighborhood. The size is in proportion to the home and is no larger than necessary to be aesthetically-correct. With the planned front portico, the home will be both more attractive and more in keeping with similar brick colonial homes in the Village. The neighbors across the street and on each side of the home have been contacted, shown the plans and strongly support the improvements. *See* further discussion in Attachment 3.



## ATTACHMENT 2

### ENFORCEMENT OF THE BUILDING REGULATIONS WOULD RESULT IN UNWARRANTED HARDSHIP AND INJUSTICE

Every home in the unit or first block of East Lenox Street, without exception, has a front portico or covered front porch. Requiring the applicant to forego a front porch when all neighbors along East Lenox, between Connecticut Avenue and Brookville Road, have front porticos or front porches would impose a hardship and injustice on him without serving any public purpose.

The aforementioned unwarranted hardship and injustice is precisely the successful argument that was made in both Case No. A-4504 (Decision of the CCV Board of Managers, dated December 9, 2002) involving property located at 12 Primrose Street and Case No. A-5952 (Decision of the CCV Board of Managers, dated August 3, 2011) involving a property listed at 27 Primrose Street. The argument here, however, is stronger insofar as it applies to every home on the block, while the Primrose Street situations involved only the assertion that porticos were "usual and customary on Primrose Street" (Case No. A-4504, Decision p. 3): "most of the houses along this block have covered stoops or porches." (Case No. A-4504, Decision, Findings at p. 5); "most houses along this block have covered stoops or porches . . ." (Case No. A-5952, Findings at p. 4); and "numerous porches and covered stoops [exist on Primrose Street] . . ." (Case No. A-5952, Findings at p. 5).<sup>1</sup>

It is also the case that the applicant's property here faces north, like the property at 16 Primrose, and as a result, the stoop can be especially slippery during the winter because snow, sleet and ice are shaded from the sun by the house and, therefore, melting occurs slowly. (Case No. A-4504, Decision, p. 4). Snow, sleet and ice also fall off the roof and directly onto the stoop. This hardship will be remedied by the proposed improvements which would also "increase the comfort and safety of visitors." *Id.* at p. 2.

The proposed portico would also not alter the established building line for porticos on East Lenox Street between Connecticut Avenue and Brookville Road. This is because: 1) all homes have porticos or porches, except 4 East Lenox Street; and 2) those homes which have porticos or porches most often infringe on the 25 foot from building restriction line, with several infringing significantly more than the proposed infringement here. For example:

- 3 E. Lenox (directly across the street from applicant) has a covered porch that extends 9 feet into the BRL, without counting the steps which extend several more feet.
- 6 E. Lenox (next door to the applicant) has a covered front porch and steps that extend significantly into the BRL -- estimated at 12 feet -- but clearly shown in the survey.

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<sup>1</sup> The following homes on the first block of Primrose Street do not have porticos (with columns) or porches on the front of the homes: 1 Primrose, 2 Primrose, 3 Primrose and 15 Primrose.

- 12 E. Lenox has a covered porch that extends approximately 8 feet into the BRL, before counting the steps.
- 10 E. Lenox has a portico that extends 5.7 feet (without steps) into the BRL.
- 9 E. Lenox has a porch which appears to extend 7 feet into the BRL (without steps). (Note: survey is a little unclear.)
- 8 E. Lenox has a porch which extends approximately 5 feet into the BRL.
- 11 E. Lenox has steps that clearly extends into the BRL by an undetermined number of feet.

As support for this statement, applicant submits and attaches hereto surveys for the referenced properties obtained from the records of Chevy Chase Village. There are only two houses for which surveys are not available but these homes also appear to infringe on the front BRL.

1 E. Lenox is the more obvious infringement. Standing in the driveway of 1 E. Lenox it is clear that the portico is nearly as far forward as the porch on 3 E. Lenox. Moreover, the distance from the front step to the sidewalk is only 16-17 feet. 15 E. Lenox also appears to infringe by 1-3 feet. The distance from the main structure to the sidewalk is approximately 22-23 feet.

Having historically allowed every home, or nearly every home, on the first block of E. Lenox Street to encroach the front BRL, strict enforcement of the BRL against the applicant would be both unfair and a true and unwarranted hardship. Post-construction, applicant will still have a front yard larger than most of the homes on the block.



### ATTACHMENT 3

#### **THE PROPOSED VARIANCE MOST NEARLY ACCOMPLISHES THE INTENT AND PURPOSE OF THE REQUIREMENTS OF CHAPTER 8 OF THE CCV CODE**

Among the purposes of the Village Building Code is a desire that any approved variance shall:

- not adversely change the character of the property or the neighborhood;
- not adversely affect neighbors use and enjoyment of their property;
- not block vistas; and
- not decrease green space.

The proposed variance would not alter the character of the property or the neighborhood but instead would cause the affected property to more closely resemble the other houses on the affected block which all have porticos or porches and where most such porticos or porches are encroaching. Moreover, the design and aesthetics of the proposed portico are architecturally consistent with the existing home, which is a colonial revival design, is scaled appropriately and would maintain the historical integrity of the house. The additional encroachment of the proposed portico is minimal (1.5 feet) from the existing encroaching stoop.

The applicant has taken the site plans for the proposed portico and personally visited with his neighbors who are most closely affected by the proposed addition. The neighbors would be: James Spiegelman/Elizabeth Kannan at 3 E. Lenox Street (directly across the street); J.P. Matan/Lacey Matan at 6 E. Lenox Street (next door) and Mary McCulloch at 5903 Connecticut Avenue (next door). Each neighbor is very supportive of the proposed plan and has no opposition to the proposed variance. The proposed addition, therefore, would not seem to adversely affect neighbors use and enjoyment of their property. Applicant will supply the Board of Managers with an executed letter attesting to the neighbors' support at or before the November hearing.

The proposed design of the portico would also not block or impede any vistas or sight lines nor restrict the flow of light or air. The design of the portico is simple, classic, open and not enclosed in any fashion. Moreover, the simple design would replace the present, "rusting" iron railings which are more opaque than the proposed open design of the new portico.

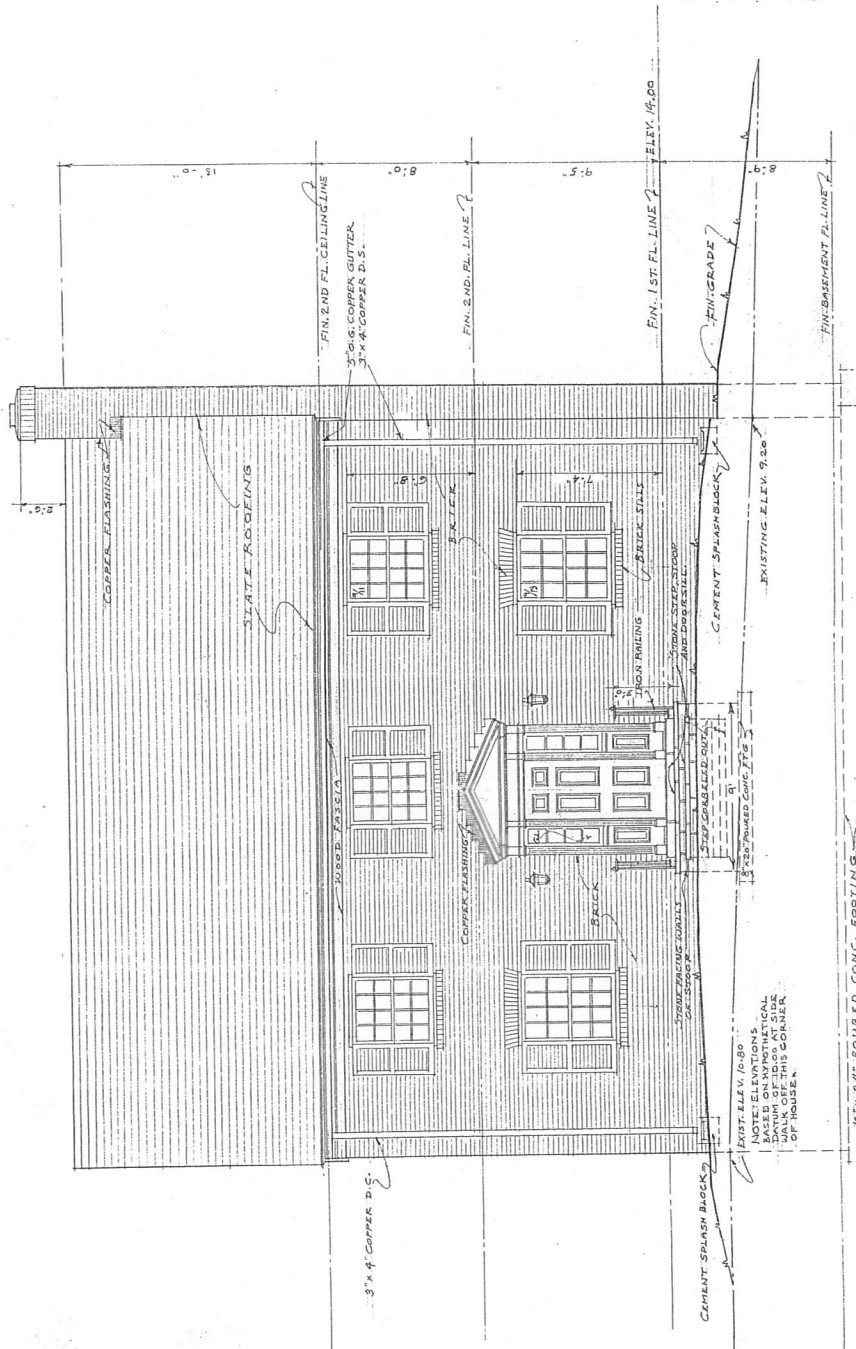
Finally, because the new proposed portico would encroach only minimally beyond the existing stoop, there is no loss of green space.

The Village Building Code also requires that any approved variance shall not:

- create unsafe conditions; or
- restrict air circulation.

As noted earlier in the application, the proposed variance would actually improve upon the present unsafe conditions created when ice and snow falls from the roof directly onto the stoop and then melts very slowly due to the northern exposure. There is no unsafe condition of any kind associated with the proposed portico. The stoop and step are also in need of being rebuilt and will be safer post-construction.

The simple, open design of the portico will not restrict air flow in any fashion.



FRONT ELEVATION  
(NORTH)  
SCALE 1/4" = 1'-0"

RESIDENCE  
FOR  
CAPT. MRS. THORNTON PARKE  
LENOX ST. CHEVY CHASE MD.  
PLANS PREPARED BY  
JOHN M. SPENCE  
3821 OLIVER ST. N.W. WASH. 15 D.C.  
19 MAR 46  
FRONT ELEV. 5'

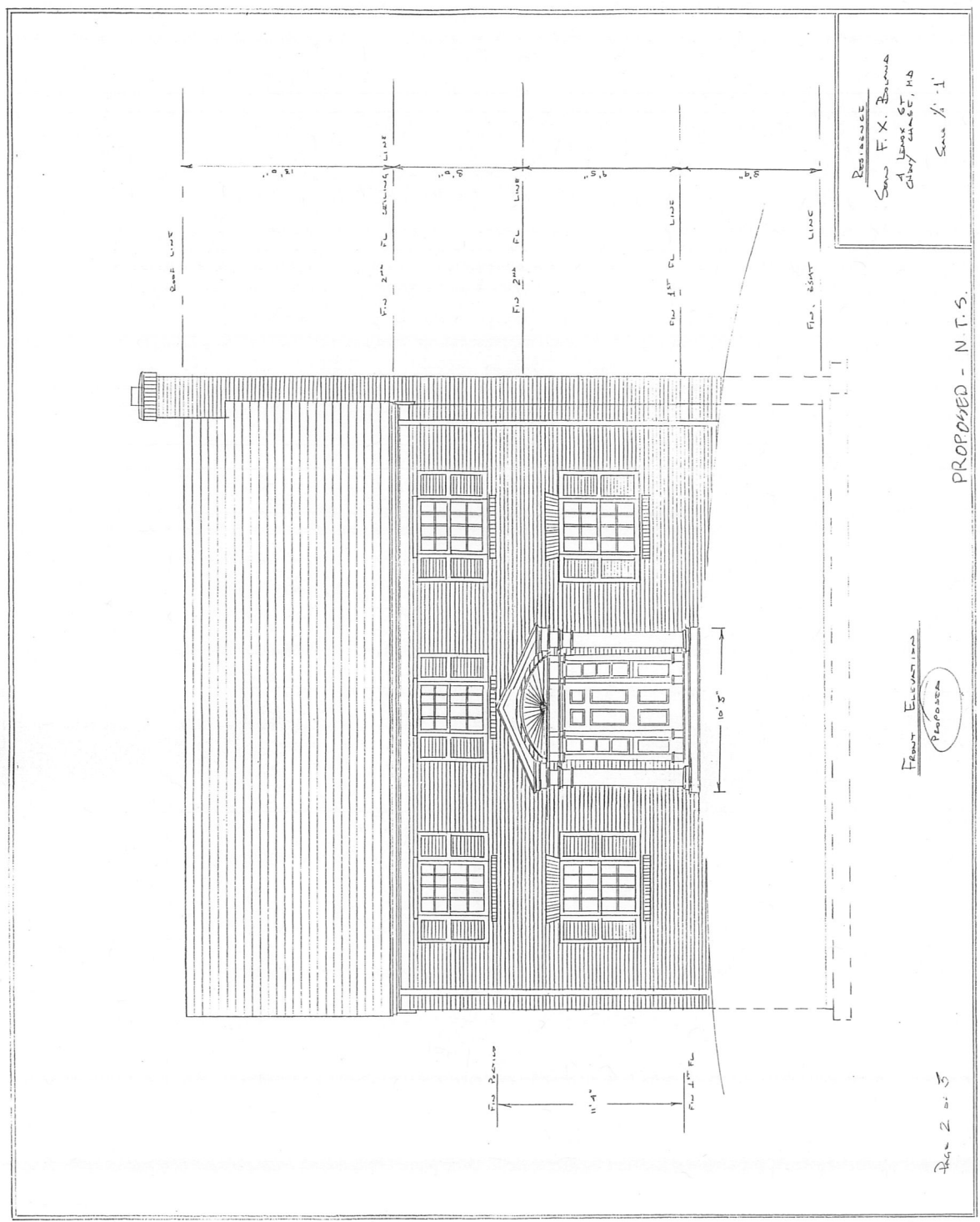
Page 1 of 3

EXISTING - N.T.S.

13







Page 2 of 5

5) 9

4. The information shown hereon has been prepared without benefit of a title report, and therefore may not reflect all easements or encumbrances which may affect subject property.

of 1.01, indicates a high set on the property line.

(60' R/W)

Rebar &amp; Cap Set



SURVEYOR'S CERTIFICATE

MARYLAND PROFESSIONAL LAND SURVEYOR REG. NO. 21330  
EXPIRES: 01-07-2015

MONTGOMERY COUNTY, MARYLAND

PLAT OF SURVEY  
PART OF LOTS 11 & 12, BLOCK 36  
SECTION NO. 2  
CHEVY CHASE

**A-6421 (a) & (b)  
Variance Request**

Plats of other properties on East Lenox Street  
provided in support of the application.

Mr. Sean F.X. Boland  
4 East Lenox Street



# LANDTECH ASSOCIATES INC.

4206 EDMONSTON ROAD BLADENSBURG, MARYLAND 20710

44

LOT #9

LOT #10

LOT #11

REMAINDER  
OF LOT #8

PART OF  
LOT #8

LOT  
#7

LOT  
#6



125.0'

N. 0° 0' 45" W.

L. 7971  
F. 716

2 STORY  
SCREENED  
PORCHES

NEW  
DECK

2  
STORY  
+  
BSMT.

FRAME

#3

34'

15.6'

26.1'

10'

31.1'

COVERED  
PORCH

10'

17.1'

13.4'

2.5'

19.1'

34'

19.3'

13.5'

10'

10'

10'

10'

10'

10'

10'

10'

10'

10'

10'

10'

10'

80.0'

N. 89° 59' 15" E.

20.0'

UTILITY  
POLE

60.0'

18.1'

22.1'

18.1'

22.1'

18.1'

22.1'

18.1'

22.1'

18.1'

22.1'

18.1'

22.1'

18.1'

22.1'

18.1'

S. 0° 0' 45" E.

125.0'

125.0'

125.0'

125.0'

125.0'

125.0'

125.0'

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125.0'

125.0'

125.0'

125.0'

125.0'

125.0'

125.0'

125.0'

80.0'

S. 89° 59' 15" W.

3 EAST LENOX STREET

NOTE: THIS PROPERTY DOES  
NOT LIE WITHIN THE LIMITS  
OF A FLOOD HAZARD  
AREA AS DELINEATED ON  
THE MAPS OF THE NATIONAL  
FLOOD INSURANCE PROGRAM

LOCATION SURVEY OF  
#3 EAST LENOX STREET

SUBDIVISION  
SECTION No. 2  
**CHEVY CHASE**  
MONTGOMERY COUNTY, MARYLAND

PLAT BOOK: \_\_\_\_\_

DATE: 12.12.85

CASE NO: 779

PLAT NO: 106

SCALE: 1" = 20'

FILE NO: MSC85473

CERTIFICATION:

I HEREBY CERTIFY THAT THE POSITION OF ALL THE EXISTING IMPROVEMENTS ON THE ABOVE DESCRIBED PROPERTY  
HAS BEEN CAREFULLY ESTABLISHED BY A TRANSIT TAPE SURVEY AND THAT UNLESS OTHERWISE SHOWN THERE ARE  
NO ENCROACHMENTS THIS IS NOT A PROPERTY LINE SURVEY AND SHOULD NOT BE USED AS SUCH

CHARLES A. ROBERTS PROP. L.S. NO. LIC. NO. 119

# CONSUMER INFORMATION NOTES:

1. This plan is a benefit to a consumer insofar as it is required by a lender or a title insurance company or its agent in connection with contemplated transfer, financing or re-financing.
2. This plan is not to be relied upon for the establishment or location of fences, garages, buildings, or other existing or future improvements.
3. This plan does not provide for the accurate identification of property boundary lines, but such identification may not be required for the transfer of title or securing financing or re-financing.
4. Building line and/or Flood Zone information is taken from available sources and is subject to interpretation of originator.
5. No Title Report furnished.

#6 E. Lenox

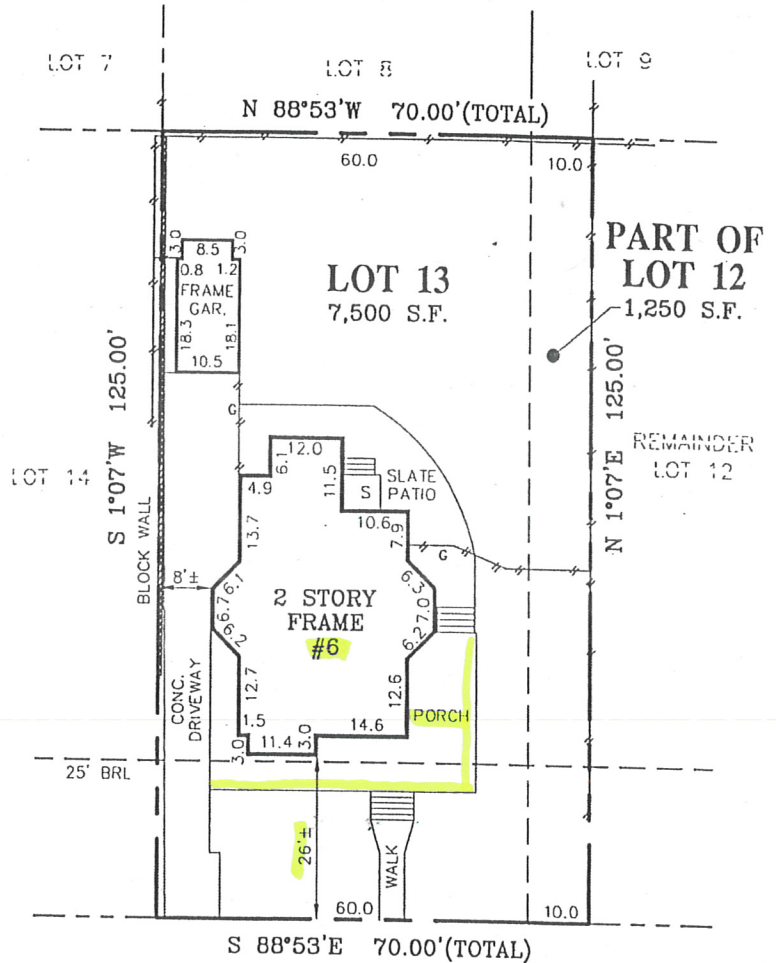


## Notes:

1. Setback distances as shown to the principal structure from property lines are approximate. The level of accuracy for this drawing should be taken to be no greater than plus or minus 2 feet.
2. Fences, if shown, have been located by approximate methods.
3. No property corners confirmed.
4. Total area: 8,750 s.f.



LOCATION DRAWING  
LOT 13 & PART OF LOT 12  
BLOCK 36, SECTION No.2  
CHEVY CHASE  
MONTGOMERY COUNTY, MARYLAND



LENOX STREET  
(60' R/W)

## SURVEYOR'S CERTIFICATE

"THE INFORMATION SHOWN HEREON HAS BEEN BASED UPON THE RESULTS OF A FIELD INSPECTION PURSUANT TO THE DEED OR PLAT OF RECORD. EXISTING STRUCTURES SHOWN HAVE BEEN FIELD LOCATED BASED UPON MEASUREMENTS FROM PROPERTY MARKERS FOUND OR FROM EVIDENCE OF LINES OF APPARENT OCCUPATION."

*Jeffrey A. Foster*  
MARYLAND PROPERTY LINE SURVEYOR REG. NO. 587  
Expires: 04-02-2013

## REFERENCES

PLAT BK. 2  
PLAT NO. 108  
  
LIBER 42774  
FOLIO 231



## SNIDER & ASSOCIATES LAND SURVEYORS

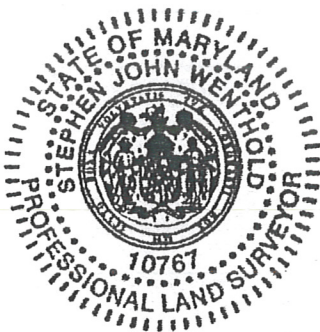
20270 Goldenrod Lane, Suite 110  
Germantown, Maryland 20876  
301/948-5100 Fax 301/948-1286

DATE OF LOCATIONS	SCALE: 1" = 30'
WALL CHECK:	DRAWN BY: J.T.H.
HSE. LOC.: 1-16-12	JOB NO.: 12-00113

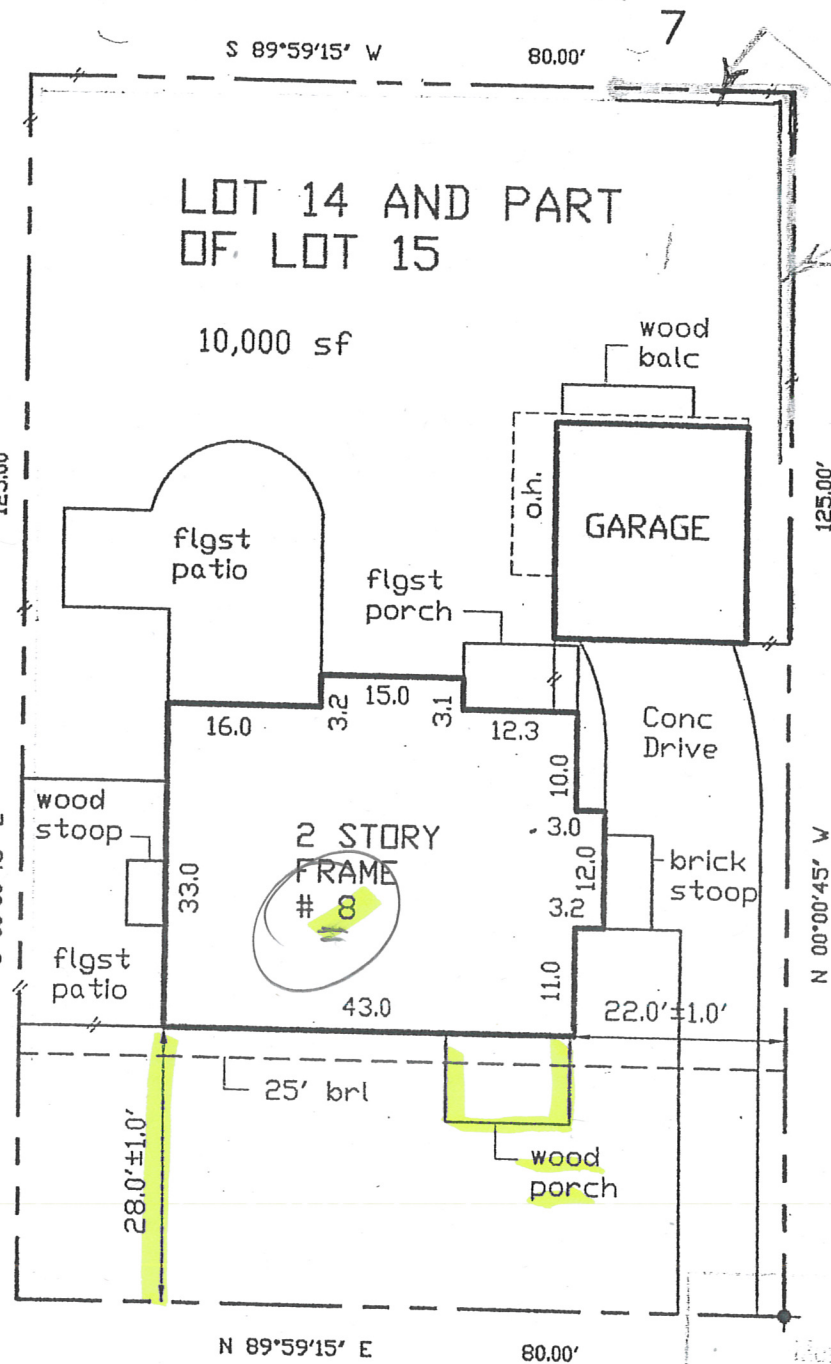




RESIDUE 15



No evidence of property corners was found.  
Apparent occupation is shown.



EAST LENOX STREET

Date: 03-04-08  
Plat Book: 2  
Plat No.: 106  
Work Order: 08-1258  
Address: 8 EAST LENOX STREET  
District: 7  
Jurisdiction: MONTGOMERY COUNTY, MD

Scale: 1" = 20' Drn: R.C.D.

NO TITLE REPORT FURNISHED

Surveyor's Certification

I hereby certify that the survey shown hereon is correct to the best of my knowledge and that, unless noted otherwise, it has been prepared utilizing description of record. This survey is not a boundary survey and the location or existence of property corners is neither guaranteed nor implied. Fence lines, if shown, are approximate in location. Building restriction lines shown are as per available information and are subject to the interpretation of the originator.

LOCATION DRAWING  
LOT 14 & PART OF LOT 15, BLOCK 36  
SECTION No. 2, CHEVY CHASE  
LIBER 10547, FOLIO 506

NOTE: This plat is of benefit to a consumer only insofar as it is required by a lender or a title insurance company or its agent in connection with contemplated transfer, financing or refinancing. This plat is not to be relied upon for the establishment or location of fences, garages, buildings, or other existing or future improvements. This plat does not provide for the accurate identification of property boundary lines, but such identification may not be required for the transfer of title or securing financing or refinancing.

*Stephen Wenthold*



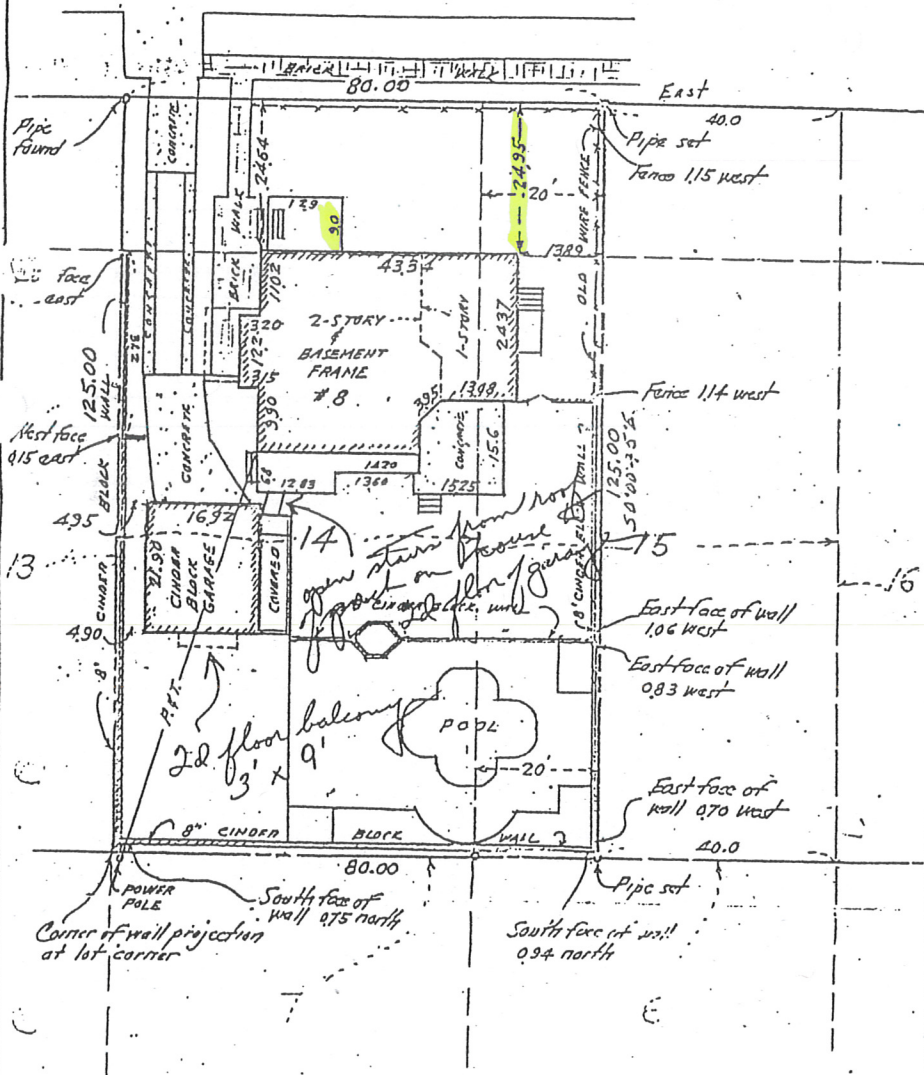
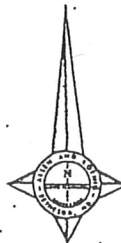
Meridian Surveys, Inc.  
811 Russell Avenue  
Suite #303  
Gaithersburg, MD 20879  
(301) 721-9400



BUILDING LOCATION AND PROPERTY LINE SURVEY  
 LOT 14 and PART OF LOT 15 IN BLOCK 36  
 Section 2  
 CHEVY CHASE  
 MONTGOMERY COUNTY, MARYLAND

8 E. LENOX

LENOX STREET



(In accord with directions and information furnished and subject to restrictions of record)

SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT THE POSITION  
 OF ALL THE EXISTING IMPROVEMENTS SHOWN  
 ON THE ABOVE DESCRIBED PROPERTY HAS  
 BEEN CAREFULLY ESTABLISHED BY A  
 TRANSIT-TAPE SURVEY AND THAT UNLESS  
 OTHERWISE SHOWN, THERE ARE NO VISIBLE  
 ENCROACHMENTS.

*Raymond A. Koenig*  
 REGISTERED LAND SURVEYOR.

REFERENCE

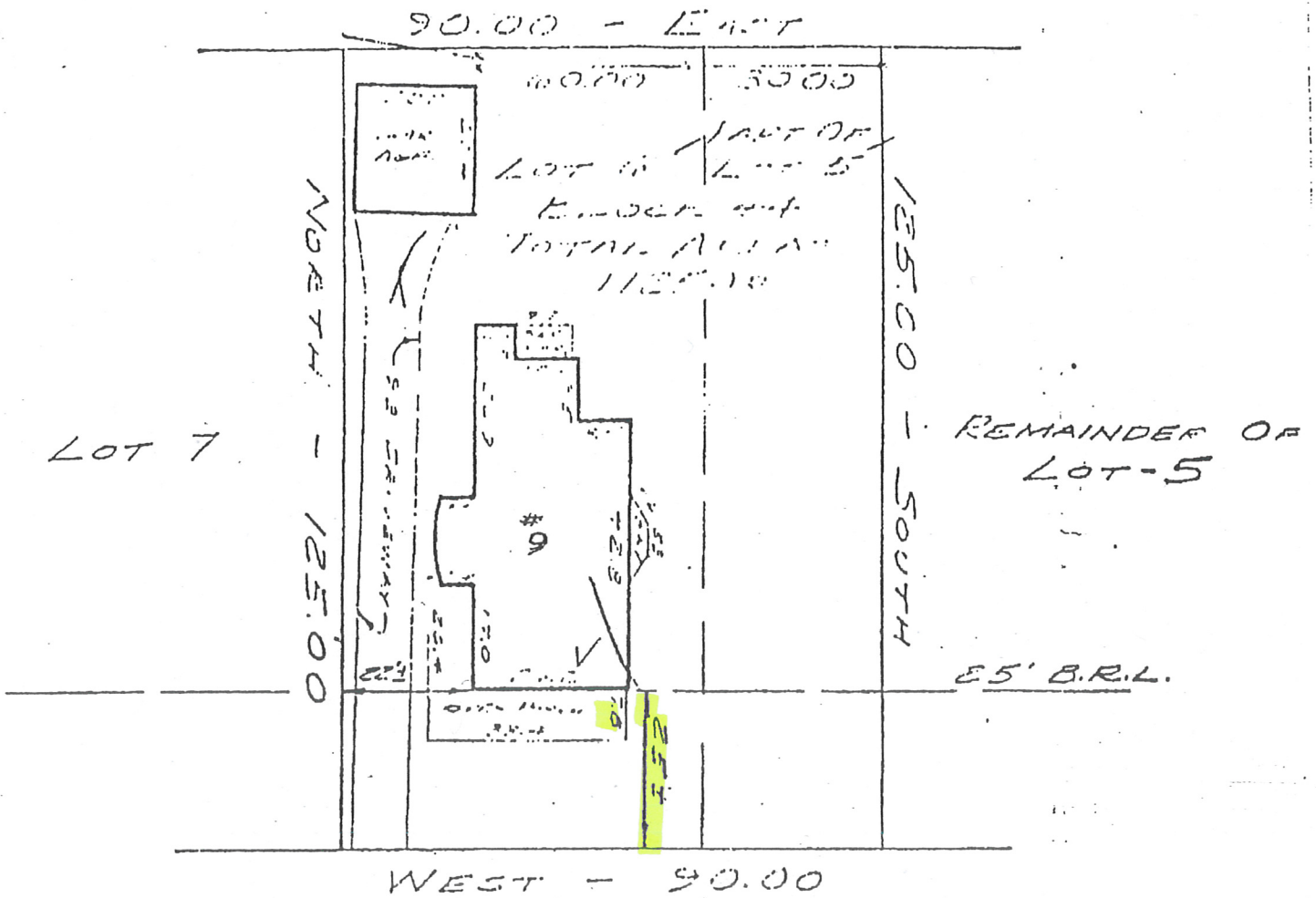
PLAT BK. 2  
 PLAT NO. 106

LIBER  
 FOLIO

ALLEN AND KOENIG

Land Planners and Surveyors  
 4801 MONTGOMERY LANE  
 BETHESDA, MARYLAND

DRAWN BY: RUK  
 DATE: 11/10/69  
 SCALE: 1 inch = 20 feet  
 P.B. 344/83  
 T.C.



9

EAST LENOX STREET



1002

MENDELSON ASSOC

202 835 0629

08/16/89 11:33



Date August 15, 1974

SECTION 2 - CHEVY CHASE  
Montgomery County  
Maryland

Case No. 16891

**SURVEYOR'S CERTIFICATE**

We hereby certify that we have carefully surveyed the property shown hereon in accordance with the descriptions of record and; have located all of the improvements shown hereon by transit-tape survey and; that there are no encroachments either way across property lines other than shown.

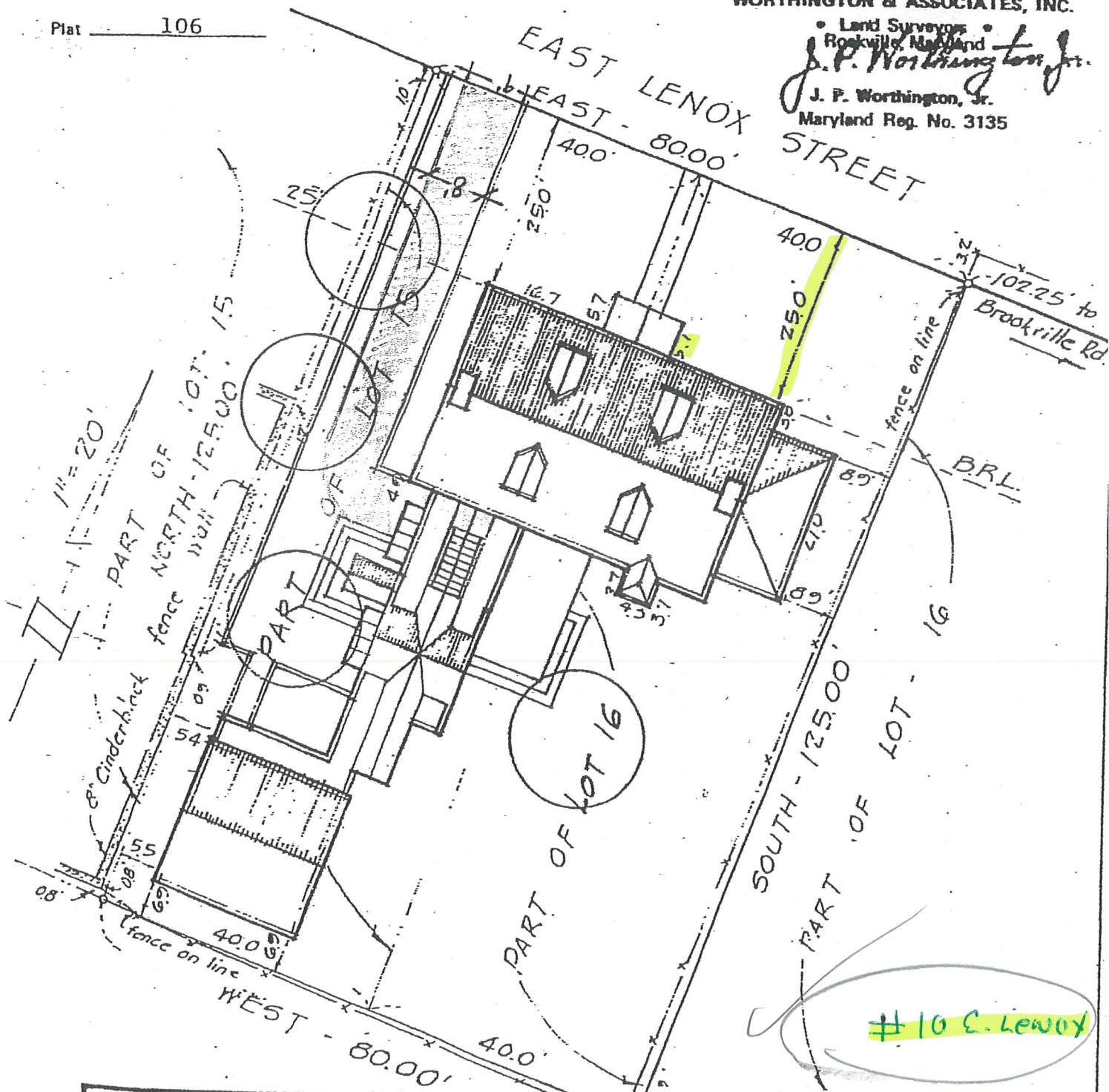
Plat Book 2

Plat 106

**WORTHINGTON & ASSOCIATES, INC.**

Land Surveyors  
Rockville, Maryland

*J. P. Worthington, Jr.*  
J. P. Worthington, Jr.  
Maryland Reg. No. 3135



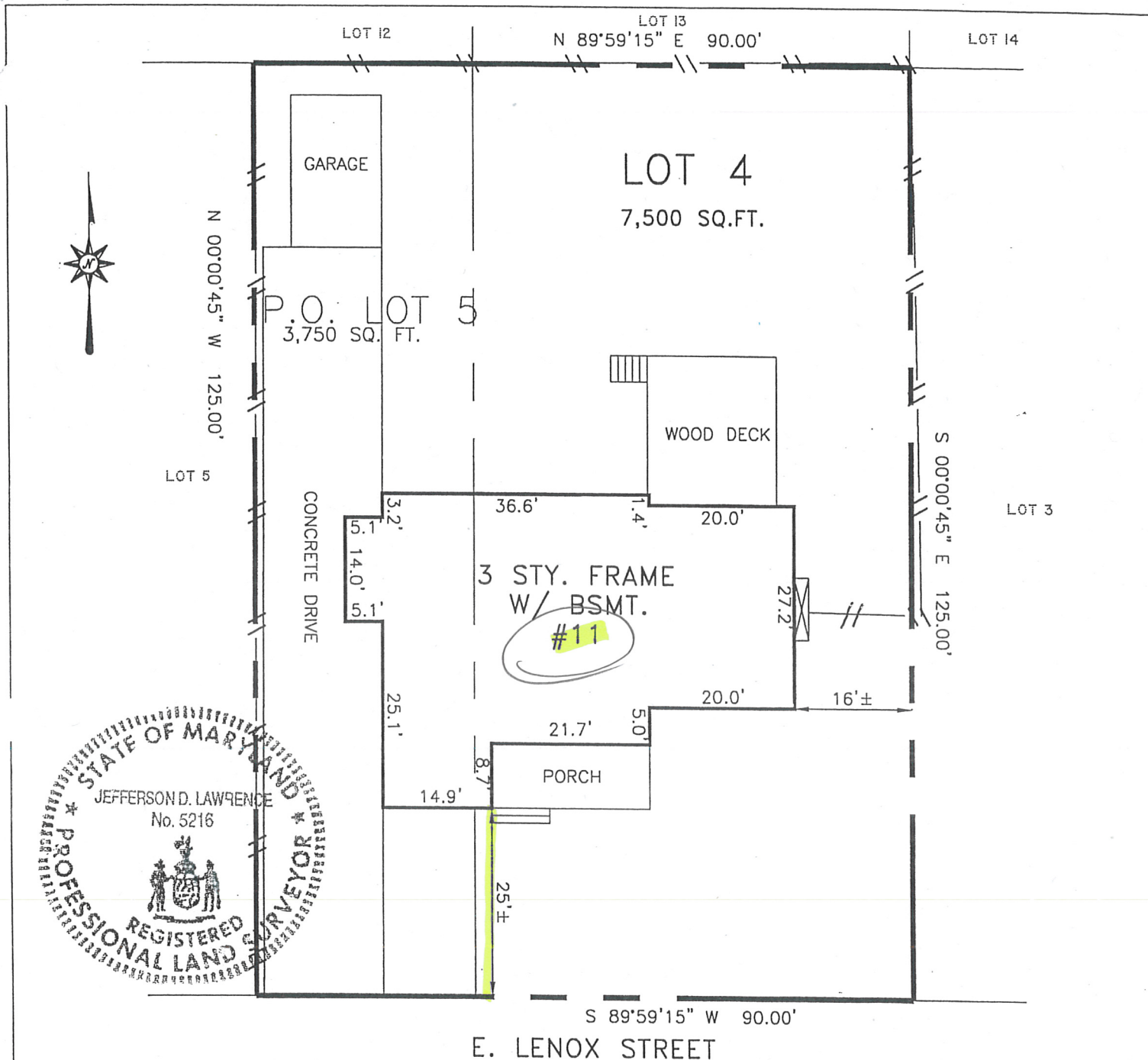
**HARTMAN-COX ARCHITECTS**  
1071 THOMAS JEFFERSON ST. N.W.  
WASHINGTON, D.C. 20007

**ZAPRIDER ADDITION**

**SITE PLAN**

1" = 20' 0"





*Jefferson D. Lawrence* 7-17-00  
 MD Reg. Professional Surveyor #5216 Jefferson D. Lawrence Date

Offset dimensions shown thus NN± are generally within 1 (one) foot of the stated distance if 20 feet or less. Longer distances may exceed 1 foot margin proportionally. All offsets depend on site conditions and other factors including but not limited to; elevation changes, availability of property markers, availability and age of land record data, irregularly shaped and or large lots.

**O'CONNELL & LAWRENCE, INC.**  
 SURVEYORS, ENGINEERS & LAND PLANNERS  
 17904 Georgia Avenue, Suite 302, Olney, Maryland 20832  
 Tel: (301) 924-4570 • Fax: (301) 924-5872

**LOCATION DRAWING**  
**CHEVY CHASE SECTION 02**  
**LOT 4 & PART OF LOT 5 BLOCK 44**  
**MONTGOMERY COUNTY, MARYLAND**  
 Plat Book: 2 Plat: 106 Liber: Folio:

**SURVEYOR'S CERTIFICATION**

I hereby certify to the best of my knowledge and belief that the property delineated hereon is in accordance with the Plat of Subdivision and/or deed of record, that the improvements were located by accepted field practices and include permanent visible structures and encroachments, if any. This drawing is not to be relied upon for the establishment or location of fences, garages, building or other existing or future improvements. This drawing does not provide for the accurate identification of property boundary lines, but such identification may not be required for the transfer of title or securing financing or refinancing. Questions pertaining to relationships of the property corners or lines to real objects must be addressed by a Boundary Survey. This drawing is of benefit to a consumer only insofar as it is required by lender or title insurance company or its agent in connection with contemplated transfer, financing or refinancing, and valid only within six months from field date, and as to them I warrant the accuracy of the drawing. No title report furnished.

Job No. 721-056  
 Scale 1"=20'  
 Field Dates  
 Wall Check  
 Final Loc. 7/12/00  
 Recert

24

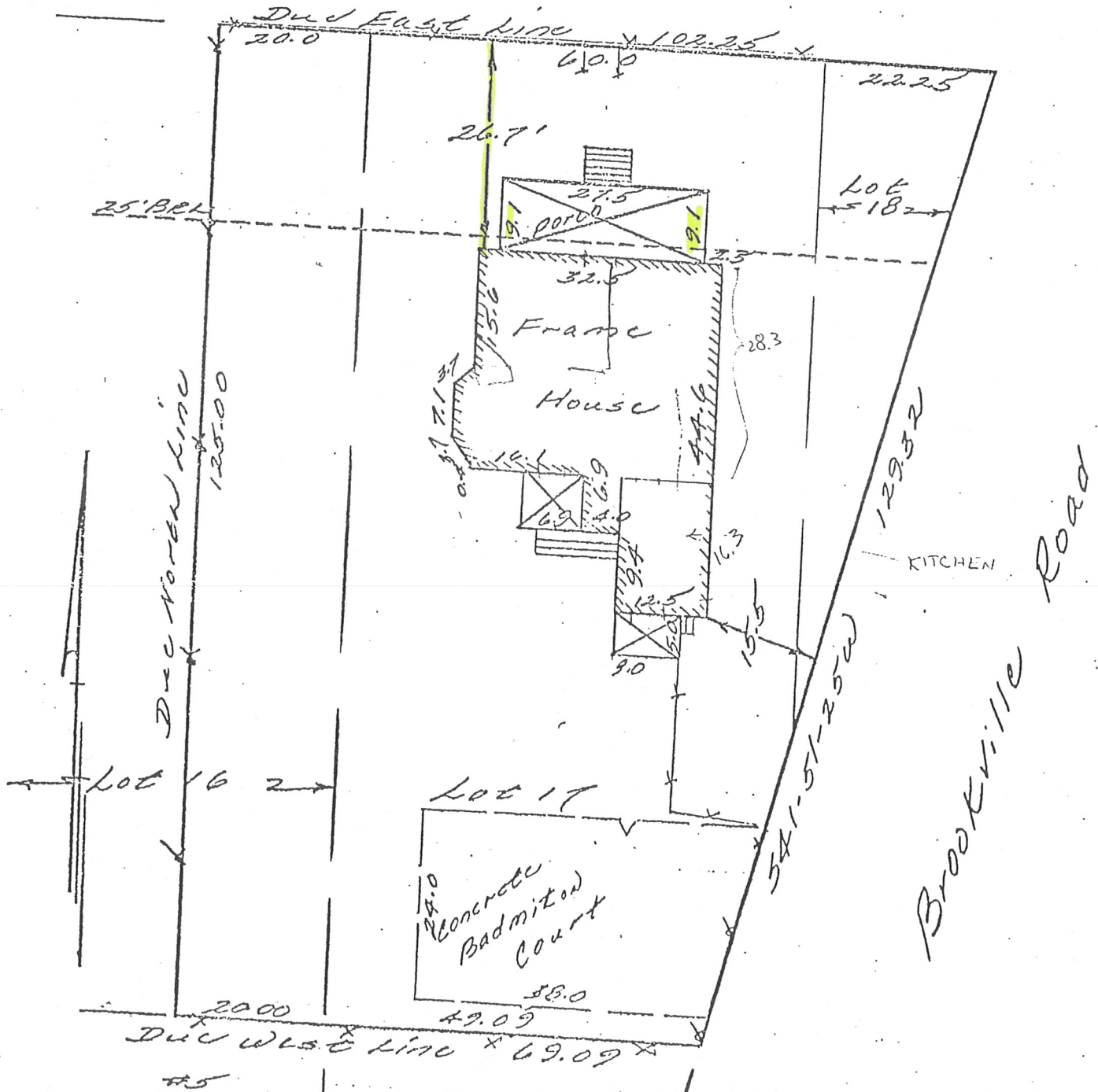


ENGINEERS

BETHESDA, MARYLAND

ATE 35044 J/O 10780  
HOUSE LOCATION PLAT  
12 East Lenox Street  
Lot 17 & Parts of Lots 16&18  
Block 36 Section 2  
Chevy Chase, Mont. Co., Md.  
Plat Book 2 Plat 106  
Scale 1"=20' March 13, 1969

12 East Lenox Street



I HEREBY CERTIFY THAT I HAVE CAREFULLY SURVEYED THE ABOVE PROPERTY BY TRANSIT-TAPE SURVEY, LOCATED IMPROVEMENTS THEREON, AND HAVE FOUND IT TO BE AS SHOWN ON THIS PLAT AND THAT THERE ARE NO ENCROACHMENTS EITHER WAY ACROSS PROPERTY LINES EXCEPT AS SHOWN ON SAID PLAT MD. REG. NO. 1690 VA. REG. NO. 441

FRANK B. LANE, REGISTERED SURVEYOR

Frank B. Lane



38

made, and who hath thereunto subscribed his name, was, at the time of so doing, a Justice of the Peace of the State of Maryland, in and for Washington County, duly appointed, commissioned and sworn, and authorized in law to administer oaths and take acknowledgements. I further certify that I am acquainted with the handwriting of the said Justice and verily believe the signature thereto is his genuine signature.



In Testimony Whereof, I hereunto subscribe my name and affix the seal of the Circuit Court for Washington County aforesaid at Hagerstown, this 23rd day of August A.D. 1893.

Geo. B. Osinski, Clerk.

JA 40

p 38-39-40

Met  
J. Fisher  
1893.

**All** the request of Geo<sup>207</sup> Loth, the following Deed was recorded this 28th day of August, 1893, To wit:  
**This Indenture**, Made this tenth day of August A.D. 1893. Witnesseth, That The Chevy Chase Land Company of Montgomery County, Maryland (a corporation duly organized under and by virtue of the laws of the State of Maryland), party hereto of the first part, for and in consideration of nine hundred and seventy five (\$975.00) Dollars, in current money of the United States, to it paid by Geo Loth of Hamilton County Ohio Party hereto of the second part, receipt of which, at the delivery hereof, is hereby acknowledged, doth grant and convey unto and to the use of the said Geo Loth his heirs and assigns, the following described land and premises, with the easements and appurtenances thereto belonging, situate and lying in Montgomery County, State of Maryland, to wit: Lot numbered twelve (12) Block numbered Thirtysix (36) in Section Two of a subdivision made by the party of the first part; and being as per plot recorded in Liber J.A. No. 36, folio 61, of the Land Records of Montgomery County, Maryland. To Have and to Hold the said land and premises, with the easements and appurtenances, unto and to the use of the said Geo Loth, the said party of the second part his heirs and assigns.

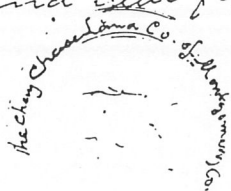
In Consideration of the execution of the Deed the said party of the second part, for his

the said party of the first part, its successors and assigns (such covenants and agreements to run with the land and to be for the mutual benefit of all portions of the section of the subdivision in which the land hereby conveyed forms a part), as follows: 1. All houses upon the premises hereby conveyed shall be built and used for residence purposes exclusively, except stables, carriage-houses or sheds which may be necessary for use in connection with such residences, and no trade, business, manufacture or sales or nuisance of any kind shall be carried on or permitted upon said premises. 2. That no stable, carriage-house or shed shall be erected within twenty-five feet of the front line of said premises. In case of corner lots any line bordering upon any street, avenue or parkway shall be considered a front line. 3. That no house shall be erected fronting on Connecticut Avenue on any lot in said section of the subdivision at a cost less than five thousand dollars (\$5,000) or upon lots fronting on the other streets of this section at a cost less than three thousand dollars (\$3,000). 4. That all houses shall be designed for the occupancy of a single family, and no part of any house or of any structure appurtenant thereto shall be erected or maintained within five (5) feet of the side lines of the lot on which it is to stand, nor within ten (10) feet of the nearest adjacent house, except that houses in pairs may be erected on one lot, the outer walls of such double houses to be not less than five (5) feet from each side line. 5. That a violation of any of these covenants and agreements may be enjoined and enforced at the suit of "The Cherry Chase Land Company, of Montgomery County, Maryland," its successors and assigns (assigns including any person deriving title mediately or immediately to any lot or square, part of a lot or square, of said section from said Company). And the said party of the first part hereby covenants that it will warrant specially the property hereby conveyed and will execute such further assurances of said land as may be requisite. And the said party of the first part hereby constitutes and appoints Jackson H. Ralston its true and lawful attorney, irrevocable, for it and in its name, place and stead, to acknowledge these presents as its act and deed before any person or officer duly authorized to take such acknowledgment. In Testimony Whereof, The Cherry Chase Land Company, of Montgomery County, Maryland, hath caused these presents to be signed by Francis



40

G. C. Spentomas is President and Howard J. Spentomas Secretary, and its corporate seal is hereto attached - and a true and correct copy hereof is written.



Francis G. Spentomas  
President

Howard J. Spentomas  
Secretary

I hereby certify that on this tenth day of August 1893, before the undersigned a Notary Public in and for the District of Columbia, personally appeared in the District of Columbia, personally appeared in the District of Columbia, personally appeared in the District of Columbia, attorney in fact for the Cherry Chase Land Company, of Montgomery County, Maryland, and acknowledged the foregoing deed to be the act of the Company.



In Testimony Whereof, I have hereunto affixed my official seal this tenth day of August, A.D. 1893.

Henry C. C. Earle  
Notary Public.

Copied & Filed  
to Grant  
Aug. 29, 1893

**At** the request of Joseph H. Weeks, the following be recorded this 28th day of August, 1893, To  
**This Deed** made this 8th Eight day of August the year of our Lord One thousand eight hundred and ninety three by us Samuel H. Jones and Mary S. Jones his wife of Montgomery County in the State of Maryland, Witnesseth, that in consideration of six hundred dollars, we the said Samuel H. Jones and Ellen Jones his wife, do grant and hereby convey confirm unto Joseph H. Weeks of said County in State, all that piece or parcel of land - part of a tract of land called "Hermitage", - situate lying and in Montgomery County in the State of Maryland, part of Lot No. 3 in the division of the late George & part of said tract called "Hermitage", and contain within the following metes and bounds, courses and distances: Beginning at a stone placed on the edge of the Brookeville and Washington Turnpike where it intersects the given line of a tract of land called "St. Winifred's", and running thence reversely a said line with half a degree allowance for variation